

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jacqueline Asencio	Team: Team # 1	CCRB Case #: 200910476	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 07/05/2009 12:50 AM	Location of Incident: § 87(2)(b)	Precinct: 34	18 Mo. SOL 1/5/2011	EO SOL 1/5/2011	
Date/Time CV Reported Tue, 07/07/2009 5:31 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 07/08/2009 10:38 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. POM Stephen Schoefer	11983	942525	034 PCT
4. SGT Neil Zuber	04696	931483	034 PCT
5. POF Leiddy Monzon	28926	936052	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
C. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
D. POM Stephen Schoefer	Discourtesy: PO Stephen Schoefer spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)
E. POM Stephen Schoefer	Force: PO Stephen Schoefer used physical force against § 87(2)(b)	§ 87(2)(b)
F. SGT Neil Zuber	Force: Sgt. Neil Zuber used physical force against § 87(2)(b)	§ 87(2)(b)
G. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
H. An officer	Force: An officer struck § 87(2)(b) with a radio.	§ 87(2)(b)
I. POF Leiddy Monzon	Force: PO Leiddy Monzon used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
J. An officer	Force: An officer used pepper spray against individuals.	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via the call processing system on July 8, 2009. § 87(2)(b)'s daughter, § 87(2)(b) also filed the same complaint with the CCRB via the call processing system on July 10, 2009. Sgt. Brenda Graham filed an additional complaint by phone with the Internal Affairs Bureau on July 5, 2009 on behalf of § 87(2)(b). On July 5, 2009, § 87(2)(b) also filed a complaint by phone with the Internal Affairs Bureau in regards to this incident. On July 24, 2009, Det. Joseph Himmelman filed an additional complaint with the Internal Affairs Bureau on behalf of § 87(2)(b). On July 5, 2009, at approximately 12:50am, a melee took place at § 87(2)(b) in Manhattan. The following allegations resulted:

Allegation A-Abuse of Authority: Officers entered § 87(2)(b) in Manhattan.

Allegation B-Force: Officers used physical force against § 87(2)(b)

Allegation C-Force: Officers used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation D-Discourtesy: PO Stephen Schoefer spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(g)

Allegation E-Force: PO Stephen Schoefer used physical force against § 87(2)(b)

Allegation F-Force: Sgt. Neil Zuber used physical force against § 87(2)(b)

Allegation G-Force: Officers used physical force against § 87(2)(b)

Allegation I-Force: PO Leiddy Monzon used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation H-Force: An officer struck § 87(2)(b) with a radio.

§ 87(2)(g)

Allegation J: Force: An officer used pepper spray against individuals.

§ 87(2)(g)

This case was originally assigned to Inv. Alexandra Holmstrom-Smith. The case was then reassigned to Inv. Esther Carpenter. Due to Inv. Carpenter's departure from the agency, the undersigned was assigned to this case on August 21, 2009.

Results of Investigation

Civilian Statements

- **Complainant/Victim:** § 87(2)(b)

On July 9, 2009, § 87(2)(b) provided a brief phone statement to Inv. Holmstrom-Smith (encl. 12a). Her statement is generally consistent with her initial complaint narrative to the CCRB on July 8, 2009. She stated the following:

CCRB Testimony

On July 5, 2009, at approximately 1:30am, police officers were knocking on apartment doors in § 87(2)(b) in Manhattan after § 87(2)(b) was placed under arrest. § 87(2)(b) went to § 87(2)(b) which was her daughter, § 87(2)(b) apartment and knocked on the door. When an individual opened the door, officers followed behind § 87(2)(b) and entered the apartment. Once inside the residence, officers punched and kicked § 87(2)(b) and punched her in the face and threw her on the floor. § 87(2)(b) was placed in handcuffs and escorted out of the apartment.

- **Victim:** § 87(2)(b)

On July 9, 2009, § 87(2)(b) provided a brief phone statement to Inv. Holmstrom-Smith (encl. 12a). His statement is generally consistent with § 87(2)(b)'s statement and exceptions are noted in the text.

CCRB Testimony

§ 87(2)(b) was in § 87(2)(b) apartment babysitting his niece, nephew, and his neighbor's daughter as § 87(2)(b) and her boyfriend were downstairs in the building. When § 87(2)(b)'s nephew opened the door to the apartment, approximately seven to eight officers entered behind § 87(2)(b). The officers pushed § 87(2)(b) and she fell into him. An officer proceeded to hit § 87(2)(b) in the ribs. After he was placed in handcuffs and taken to the stationhouse, § 87(2)(b) asked why he was placed under arrest. At that point, an officer slammed his head into "an object that had glass in it."

- **Complainant/Victim:** § 87(2)(b)

On July 10, 2009, § 87(2)(b) filed a complaint in regards to the incident reported by her mother (encl. 11d). Her statement is generally consistent with § 87(2)(b)'s statement and exceptions are noted in the text.

CCRB Testimony

§ 87(2)(b) was inside her apartment when police officers arrived banging on her door, threatening to knock it down. When § 87(2)(b) opened the door, approximately fourteen officers entered her apartment. Once inside the apartment, four officers began to beat her brother and mother.

- **Complainant/Victim:** § 87(2)(b)

§ 87(2)(b) is a § 87(2)(b)-year-old Hispanic male who is 5'10" tall, weighs 185 pounds, has brown hair and brown eyes. At the time of the interview, § 87(2)(b) was § 87(2)(b).

CCRB Testimony

§ 87(2)(b) was interviewed by Inv. Carpenter on August 13, 2009 (encl. 13a-13k). His statement is generally consistent with his initial complaint narrative to IAB on July 24, 2009 (encl. 10c-10d) and exceptions are noted in the text. On July 5, 2009, at approximately 12:50am, § 87(2)(b) was with his family and friends standing on the sidewalk in front of § 87(2)(b) in Manhattan. § 87(2)(b)'s sister, § 87(2)(b) his brother, § 87(2)(b) his § 87(2)(b) old niece, § 87(2)(b) his brother's wife, § 87(2)(b) and his friends, § 87(2)(b) and § 87(2)(b) (last name unknown) were accompanying § 87(2)(b). Later in the interview, § 87(2)(b) stated that he called § 87(2)(b) to come and meet him in front of § 87(2)(b). § 87(2)(b) mentioned that he had a couple of drinks before he arrived at the location. § 87(2)(b) then stated that he had one glass of cranberry juice mixed with Grey Goose vodka. § 87(2)(b) stated that his friends may have been drinking in front of the building, but not his family members. In addition to § 87(2)(b) his family and friends, approximately one hundred people were standing on sidewalk watching the fireworks. People were also setting off the fireworks.

When § 87(2)(b) was on his way to § 87(2)(b) an individual set off a firework near him. § 87(2)(b) ran towards the building because he was frightened by it. During this time, police officers drove onto West 184th Street from Wadsworth Avenue and saw § 87(2)(b) running after the firework was set off. PO Leiddy Monzon, a female shorter than 5'10" with dark hair dressed in plainclothes, from the 34th Precinct, and PO Anibal Gomez, a male dressed in plainclothes, from the 34th Precinct, exited a grey PT Cruiser. PO Gomez approached § 87(2)(b) who was still running towards § 87(2)(b) and placed his open palm on § 87(2)(b)'s chest and said, "You come over here." PO Monzon then grabbed both of § 87(2)(b)'s arms, pulled them behind his back, and handcuffed him.

Once § 87(2)(b) was placed in handcuffs, he was escorted to the PT Cruiser and placed in the vehicle. § 87(2)(b) immediately walked over to the curb and tried to explain to the officers that § 87(2)(b) was only § 87(2)(b)-years-old. § 87(2)(b) never stepped off the sidewalk. PO Monzon and PO Gomez stood by the car and ignored him. § 87(2)(b) did not come in physical contact with either officer. § 87(2)(b) did not see PO Monzon or PO Gomez use their radios, but approximately two to three minutes later, a patrol van arrived at the location with additional officers.

An officer, identified as PO Stephen Schoefer, a white male standing at 5'10" with light eyes, from the 34th Precinct, approached § 87(2)(b) and told him, "This has nothing to do with you. Back up. Back the fuck up." In his initial complaint narrative to IAB, § 87(2)(b) did not mention that PO Schoefer cursed at him. § 87(2)(b) told PO Schoefer that § 87(2)(b) was his little brother and that he was asthmatic. PO Schoefer told § 87(2)(b) "back up" about three more times. PO Schoefer then pushed § 87(2)(b) on his chest with one hand. § 87(2)(b) took a couple of steps back from this push. § 87(2)(b) was standing on the sidewalk the entire time and did not approach any of the officers.

§ 87(2)(b) tried talking to the officers about his little brother when PO Schoefer pushed § 87(2)(b) a second time near his upper chest area. At that point, § 87(2)(b) used one hand and brushed PO Schoefer's hand away. Later in the interview, § 87(2)(b) stated that PO Schoefer did not push him a second time and that as the officer was moving his hand towards § 87(2)(b) attempting to push him, § 87(2)(b) brushed his hand away before he was able to do so. In his initial complaint narrative to IAB, § 87(2)(b) stated that when PO Schoefer pushed him and told him to "back up," he pushed the officer's hand away. He did not mention that he was pushed a second time. All of a sudden, unidentified officers "rushed" § 87(2)(b) from behind and he fell to

the ground. At that point, § 87(2)(b) “blacked out” and was unable to recall specifically how the officers brought him to the ground or much of what followed. Before he was grabbed from behind, § 87(2)(b) did not hear any officers give him any instructions.

§ 87(2)(b) was lying on the ground facedown with his arms extended in both directions as he was being punched and hit multiple times. He received a bruised rib on the left side of his body and multiple lacerations to his face, mainly on the left side. § 87(2)(b) felt hits to his head, specifically the back of his head and sustained lumps to the back of his head and a knot on his forehead and in between his eyebrows. § 87(2)(b) was unable to estimate how many hits to his face or body he sustained and was unable to specify what he was being hit with. § 87(2)(b) heard from witnesses at the scene, including § 87(2)(b) that PO Schoefer hit him in his ribs with a police radio, but he did not recall this. Earlier in the interview, § 87(2)(b) stated that § 87(2)(b) left the location before he was being placed under arrest. The witnesses also told § 87(2)(b) that the officers were using flashlights to hit him.

§ 87(2)(b) did not try to stand up or kick his feet as he lay on the ground. § 87(2)(b) was only able to describe the officers that approached him from behind as white males. § 87(2)(b) was placed in handcuffs and picked up off the ground. He was then escorted to the patrol van. At the stationhouse, § 87(2)(b) told the officers that he had problems breathing. An ambulance arrived and he was taken to § 87(2)(b).

Statements to § 87(2)(b)

On § 87(2)(b), § 87(2)(b) went to § 87(2)(b). According to EMS, “Patient was hit with fists and also kicked. Patient has multiple contusions to face and head without any bleeding” (encl. 16a-16d). § 87(2)(b) denied a loss of consciousness and stated that he specifically remembered what happened to him. His chief complaint to EMS was that his chest hurt. § 87(2)(b) told hospital personnel that “he was assaulted by police officers, punched in the face multiple times and in the chest.” He repeated to them that he did not lose consciousness (encl. 17a).

Photographs

§ 87(2)(b) presented Inv. Carpenter with photographs of his injuries. The photos showed scrapes on his face, wrist, and back (encl. 13f-13i).

Victim: § 87(2)(b)

§ 87(2)(b) is a § 87(2)(b)-year-old Hispanic male who is 5’11” tall, weighs 200 pounds, has brown hair and brown eyes.

CCRB Testimony

§ 87(2)(b) was interviewed by Inv. Carpenter on August 13, 2009 (encl. 14a-14e). § 87(2)(g) § 87(2)(b) was standing on the sidewalk when someone lit a firework in the middle of the street. When the firework was about to explode, he ran across the street to get away from it. § 87(2)(b) did not participate in lighting the firework. § 87(2)(b) reached the other side of the street and began walking toward § 87(2)(b). Officers pulled up in a black unmarked vehicle and parked near § 87(2)(b). PO Monzon, a Hispanic female with a slim build standing at 5’3”, and PO Gomez, a Hispanic male standing at about 5’9”, exited the vehicle and walked over to § 87(2)(b). PO Monzon instructed § 87(2)(b) to put his hands behind his back and § 87(2)(b) immediately complied. PO Monzon then placed him in handcuffs. PO Gomez did not have

to assist PO Monzon when she placed § 87(2)(b) in handcuffs. PO Monzon then escorted § 87(2)(b) to the vehicle.

§ 87(2)(b) sat down in the backseat of the patrol car as PO Monzon stood near the frame of the door, with the door open. § 87(2)(b) was yelling at the officers and trying to explain to them that § 87(2)(b) did not light the firework. As § 87(2)(b) was speaking with about four officers, he was standing on the sidewalk adjacent to where § 87(2)(b) was seated in the vehicle, however there was a parked car in between them. Approximately ten additional uniformed officers arrived and pushed § 87(2)(b) and started to “beat on” him. § 87(2)(b) was unable to see where the officers pushed § 87(2)(b) because there were officers standing in the way. § 87(2)(b) did not hear officers give § 87(2)(b) any instructions before they pushed him. § 87(2)(b) was also unable to see any of the officers specifically hitting § 87(2)(b) because he assumed § 87(2)(b) fell to the floor since he lost sight of him. § 87(2)(b) was unable to describe any of the officers who used force against § 87(2)(b) except that they were all males. This happened for about three minutes until § 87(2)(b) started to tell the officers to stop hitting his brother.

§ 87(2)(b) moved around in his seat to try to get comfortable and had moved his body to the right toward the door. PO Monzon must have thought that he was trying to get out of his seat because she then hit him with a closed fist on his upper chest area, a few inches below his neck. § 87(2)(b) did not sustain any injury from the punch to his chest. PO Monzon then closed the door and went over to the sidewalk where § 87(2)(b) and the additional officers were standing. Later in the interview, § 87(2)(b) stated that he did not know where PO Monzon went after she walked away from the vehicle. § 87(2)(b) denied that he and § 87(2)(b) drank alcohol before they were placed under arrest.

- **Witness:** § 87(2)(b) is a § 87(2)(b)-year old Hispanic male who provided a phone statement on September 9, 2009 (encl. 15a-15b). § 87(2)(b) did not return the verification form that was sent to him. § 87(2)(b) is a friend of § 87(2)(b) § 87(2)(g)

CCRB Testimony

§ 87(2)(b) and his wife, § 87(2)(b) had one small plastic cup of Hennessy as they watched the fireworks. § 87(2)(b) approached PO Monzon and PO Gomez asking them why § 87(2)(b) was placed under arrest. § 87(2)(b) was standing on the sidewalk and there was a parked car in between him and the PT Cruiser. During this time, § 87(2)(b) was standing in front of § 87(2)(b) watching § 87(2)(b) and the officers talking. § 87(2)(b) was not yelling, screaming, or making any gestures toward the officers.

An additional six male uniformed officers (four Hispanic and two white) arrived in a marked police van and started to push people away including § 87(2)(b) who was still speaking to PO Monzon and PO Gomez. § 87(2)(b) observed one Hispanic male officer and three white male officers pushed § 87(2)(b) face forward toward the gate of the building. When § 87(2)(b) was pushed away, he turned around and told the officers that his little brother was placed under arrest and he was speaking to PO Monzon and PO Gomez. The officers continued to push § 87(2)(b) and were attempting to place him in handcuffs by grabbing his arms and putting them behind his back. § 87(2)(b) asked the officers why he was being placed under arrest. § 87(2)(b) was placed in handcuffs and then he was pulled away from the gate and he fell facedown on the ground. § 87(2)(b) was not sure if § 87(2)(b) was thrown to the ground or if he fell on his own.

All of a sudden, § 87(2)(b) saw four to six officers holding § 87(2)(b) down while one white male officer was beating him on his head with a radio, one officer was hitting him on his ribs and back as one Hispanic male officer held his arms behind his back and one officer held his legs. As this took place, there was a crowd of approximately fifteen to twenty people surrounding the officers screaming at them.

During this time, another marked police van arrived at the scene with one short, light-skinned female uniformed officer and four male uniformed officers. They began to push more people away from the area and the area in which § 87(2)(b) was being beaten including § 87(2)(b) who was standing approximately five feet away from § 87(2)(b) and the officers. The officers told the people from the crowd, "Move back." Some people complied while others did not. One of the officers that was beating § 87(2)(b) in the face took out his pepper spray and sprayed the crowd. A chubby Hispanic male uniformed officer with a goatee told § 87(2)(b) "Move back," as he pushed him twice on his chest. § 87(2)(b) received no injuries as a result. At that point, the female uniformed officer from the additional marked police van placed him under arrest for § 87(2)(b).

Attempts to Contact Civilians

On July 29, 2009, § 87(2)(b) withdrew her portion of the complaint. When Inv. Holmstrom-Smith contacted § 87(2)(b) on July 9, 2009, he did not schedule an appointment because he wanted to consult with his lawyer. From July 13 through August 10, 2009, Inv. Carpenter called § 87(2)(b) and left him messages asking him to contact the investigator. Two "please call" letters were sent to § 87(2)(b) on July 9 and August 31, 2009. § 87(2)(b) was contacted by Inv. Carpenter from July 14 through August 10, 2009. § 87(2)(b) missed an appointment with Inv. Carpenter on August 3, 2009. A "missed appointment" letter was sent to § 87(2)(b) on that date as well as a final "please call" letter.

Since § 87(2)(b) called IAB in regards to this incident, he was contacted from August 31 through September 29, 2009. Two "please call" letters were sent to § 87(2)(b) on August 31 and September 29, 2009. § 87(2)(b) was contacted from September 9 through September 29, 2009. Two "please call" letters were also sent to § 87(2)(b) address. § 87(2)(b) and § 87(2)(b) were contacted from November 10, 2009 through February 1, 2010. § 87(2)(b) was also contacted from February 2 to February 5, 2010. Two "please call" letters were mailed to § 87(2)(b). As of this date, § 87(2)(b) and § 87(2)(b) have not contacted the CCRB by phone or mail in regards to this complaint.

NYPD Statements:

Subject Officer: PO STEPHEN SCHOEFER

- § 87(2)(b) -year-old white male, height 5'9", weight 160 pounds, blond hair and blue eyes.
- On July 5, 2009, assigned to the Conditions unit. PO Schoefer worked in uniform with Sgt. Neil Zuber from 5:30pm to 2:05am.

Memo Book

PO Schoefer noted § 87(2)(b) and § 87(2)(b)'s arrests in his memo book at 12:50am (encl.18a-18b).

OLBS Worksheet

On July 5, 2009, PO Schoefer prepared an arrest report for § 87(2)(b). He wrote the following on the report: “§ 87(2)(a) 160.50

” (encl. 19a-19b).

CCRB Testimony

PO Schoefer provided a statement to the CCRB on May 13, 2010 (encl. 20a-20b). Once PO Schoefer and Sgt. Zuber arrived at the location, PO Schoefer observed a crowd of people standing on both sides of the street and on the sidewalk. PO Schoefer walked toward the people standing on the street and on the sidewalk and pointed with his finger and arm extended in the air instructing the civilians to move down the block and give the officers some room. Some people complied with the officer’s instruction but § 87(2)(b) approached PO Schoefer and slapped his hand that was in the air down hard. He did not recall where Sgt. Zuber was at the time.

When PO Schoefer decided to place § 87(2)(b) under arrest and stepped forward to grab him, § 87(2)(b) stepped back and positioned both his arms in front of his face with closed fists. PO Schoefer grabbed § 87(2)(b) but § 87(2)(b) punched him a few times on the chest. PO Schoefer received no injuries from the punches. § 87(2)(b) grabbed PO Schoefer by the front of his shirt by the collar with both hands trying to get him on the ground. PO Schoefer tried to stay on his feet but he did not recall what he did in order not to fall. PO Schoefer did not recall if § 87(2)(b) was placed on the ground or against the gate or if he himself fell on the ground. The officer did not recall if he gave § 87(2)(b) any instructions. § 87(2)(b) did not lose consciousness and was speaking to PO Schoefer but he did not recall what he was saying at the time. PO Schoefer did not remember which officers came to assist him and did not recall what these officers did in order to place § 87(2)(b) in handcuffs. PO Schoefer did not recall if he assisted in placing § 87(2)(b) in handcuffs. PO Schoefer saw § 87(2)(b) at the stationhouse, but he did not recall if § 87(2)(b) had any injuries on him. However, he remembered that § 87(2)(b) was taken to the hospital but he did not know the reason why.

PO Schoefer did not observe any officers struggling with any other civilians especially PO Monzon. PO Schoefer did not recall § 87(2)(b) being hit with a radio or a flashlight. He denied cursing at § 87(2)(b) pushing, and punching him. PO Schoefer did not observe PO Monzon punch § 87(2)(b). PO Schoefer did not observe an officer push § 87(2)(b) or discharge pepper spray into the crowd.

Subject Officer: SGT. NEIL ZUBER

- § 87(2)(b) -year white male, height 6’2”, weight 190 pounds, blond hair and green eyes.
- On July 5, 2009, assigned to the fireworks confiscation detail. Sgt. Zuber worked in uniform with PO Stephen Schoefer, PO Michael Walsh, and PO John Hewitt from 6:00pm to 2:57am.

Memo Book

Sgt. Zuber noted in his memo book that he and his partners responded to a call placed by PO Monzon and PO Gomez at 12:45am (encl. 21a-21c).

CCRB Testimony

Sgt. Zuber provided a statement to the CCRB on April 22, 2010 (encl. 22a-22b). On July 5, 2009, Sgt. Zuber received a call by PO Monzon and PO Gomez to come to their location to verify an arrest. Once he arrived, many people, growing from “a couple dozen” to “several hundred”, began fighting with the officers. Officers were on either side of a large crowd of people, and Sgt. Zuber was unable to see all of the officers. He was able to see PO Monzon fighting with § 87(2)(b) and PO Gomez fighting with § 87(2)(b). Sgt. Zuber assisted PO Gomez in handcuffing § 87(2)(b) who was flailing his arms, kicking his legs, and refusing to be handcuffed while crowd members were attempting to pull him away from officers. PO Gomez stood behind Sgt. Zuber and told him to help several other uniformed officers involved in a much larger fight with individuals.

Sgt. Zuber observed § 87(2)(b) “squaring off” with uniformed officers and “throwing punches at them.” He approached § 87(2)(b) from behind, grabbed one of his arms, and took him down to ground. Sgt. Zuber helped place him on the ground and crossed his feet and applied pressure to his ankles to prevent him from kicking the officers. While he handcuffed § 87(2)(b) Sgt. Zuber told him to place his hand behind his back and to give him his other hand. § 87(2)(b) was screaming, telling Sgt. Zuber to get off of him. Other officers stood by to protect Sgt. Zuber as he handcuffed § 87(2)(b). He did not observe any injuries on § 87(2)(b) and he did not hear him complain of any injuries. Sgt. Zuber also denied seeing § 87(2)(b) lose consciousness. Sgt. Zuber stated that he could not deny that he did not use profanity during this incident, but it was not directed toward § 87(2)(b). He denied hitting § 87(2)(b) in the head with a radio or flashlight and punching him. Sgt. Zuber denied observing another officer engaging in such actions.

As he knelt on the sidewalk with § 87(2)(b) he lost track of PO Monzon, PO Gomez, and the uniformed officers because the crowd surrounded each officer individually. He called for additional units to respond to § 87(2)(b) § 87(2)(b). Sgt. Zuber then observed bottles breaking near him, and told § 87(2)(b) to stay down and keep his head down. Over a hundred police officers responded to the scene, at which point people began throwing more bottles and debris from the rooftops at the officers. He denied observing an officer discharge pepper spray into the crowd.

Subject Officer: PO LEIDDY MONZON

- § 87(2)(b) -year-old Hispanic female, height 5'2", weight 125 pounds, black hair and brown eyes.
- On July 5, 2009, assigned to the Conditions unit. PO Monzon worked in plainclothes with PO Anibal Gomez from 5:30pm to 2:05am.

Memo Book

PO Monzon noted in her memo book that she arrested § 87(2)(b) and § 87(2)(b) at 12:56am (encl. 23a-23d).

CCRB Testimony

PO Monzon provided a statement to the CCRB on April 21, 2010 (encl. 24a-24b). On July 5, 2009, at approximately 12:50am, PO Monzon and PO Gomez were in front of § 87(2)(b) in Manhattan during observations as part of the Fourth of July detail. As the officers were doing observations, they observed § 87(2)(b) and his brothers going to a building at § 87(2)(b), setting off fireworks, and exiting through the back of the building. After PO Monzon observed § 87(2)(b) light a firework, she decided to place him under arrest.

PO Monzon placed § 87(2)(b) in handcuffs, as his brothers, who were upset, nasty, and rude, screamed at the officers saying that § 87(2)(b) was a minor. The brothers stood approximately four feet away from the officers. PO Monzon escorted § 87(2)(b) to the police vehicle but he began to struggle with her. During this time, § 87(2)(b) approached PO Gomez, who was standing on the sidewalk. PO Gomez tried to hold § 87(2)(b) back since he was upset that § 87(2)(b) was placed under arrest. PO Monzon could not specify how PO Gomez was holding him back.

As PO Monzon tried to place § 87(2)(b) inside the car, § 87(2)(b) began to kick PO Monzon. She did not recall if she received any injuries from the kicks. PO Monzon tried to place § 87(2)(b) inside the car but she was struggling because § 87(2)(b) was twice her size and weight. PO Monzon pushed § 87(2)(b) with her palms on his chest a few times to get him inside the vehicle and prevent him from escaping. PO Monzon told § 87(2)(b) “Stay back, stay back,” but he would not comply. PO Gomez did not help PO Monzon in trying to place § 87(2)(b) inside the vehicle because he was still dealing with § 87(2)(b). PO Monzon heard PO Gomez screaming at her to call for additional units. As PO Monzon struggled with § 87(2)(b) and had him inside of the car but without the door closed, she was on the radio calling for assistance. PO Monzon did not know how long she struggled with § 87(2)(b) before the additional officers arrived at the scene. PO Monzon closed the door to the vehicle once the additional officers arrived at the location. § 87(2)(b) did not complain of any injuries to PO Monzon and she did not observe any injuries on him.

PO Monzon remained by her police vehicle since § 87(2)(b) was her prisoner. After the additional officers arrived at the scene, PO Monzon lost view of PO Gomez and § 87(2)(b). PO Monzon observed § 87(2)(b) take a swing at PO Schoefer, approximately five feet away from where PO Gomez was standing on the sidewalk. PO Monzon did not observe what happened to PO Schoefer after § 87(2)(b) took a swing at him. PO Monzon did not hear PO Schoefer curse at § 87(2)(b) or see him on the ground. She did not observe an officer hit § 87(2)(b) with a radio or flashlight. She did not hear anything about § 87(2)(b) losing consciousness. PO Monzon did not see if PO Schoefer placed § 87(2)(b) under arrest. PO Monzon left the location once all the arrests were made and the crowd had dispersed. PO Monzon did not observe an officer discharge any pepper spray into the crowd. She stated did not observe an officer pushed § 87(2)(b).

Medical Records- § 87(2)(b)

Triage Nurse § 87(2)(b) wrote, “While fighting with police, patient suffered multiple contusions and bruises to face” (encl. 17f). § 87(2)(b) suffered no fractures and was given Ibuprofen for the pain.

NYPD Documents

- **Sprint Print-Out**

On July 5, 2009, at approximately 12:53am, the anti-crime sergeant requested additional officers to respond to West 184th Street. At 12:56am, the anti-crime sergeant advised that all officers were accounted for (encl. 25a-25c).

- **Command Log**

The command log indicated that PO Monzon arrested § 87(2)(b) at 12:56am for setting dangerous fireworks. His physical/mental condition was apparently normal. The command log also indicated that PO Schoefer arrested § 87(2)(b) at 12:50am for § 87(2)(b). It was noted that § 87(2)(b) had scratches on his face and a bruise. He was taken to § 87(2)(b). At 7:20am, § 87(2)(b) was taken to Manhattan Central Booking (encl. 26a).

- **Roll Call**

The roll call confirmed the officers' statements regarding their tour and assignments (encl. 27a-27c).

- **Arrest Photograph**

§ 87(2)(b)'s arrest photograph show scratches on the left side of his face (encl. 28a).

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of June 30, 2010 with regard to the incident (encl. 31a).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 8a).

Subject Officers CCRB History

- PO Stephen Schoefer has been a member of the service for four years and there is one substantiated CCRB allegation against him. In CCRB case number 200902227, the board recommended charges against PO Schoefer for questioning § 87(2)(b). The NYPD has yet to recommend a disposition (encl. 2a).
- Sgt. Neil Zuber has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. 3a-3b).
- PO Leiddy Monzon has been a member of the service for five years and there are no substantiated CCRB allegations against her (encl. 4a).

Conclusion

Page 11

CCRB Case # 200910476

Identification of Subject Officers

- Since § 87(2)(b) and § 87(2)(b) did not cooperate in the investigation, the investigation was unable to determine which officers entered § 87(2)(b)'s apartment and allegedly used force against § 87(2)(b) and her son. § 87(2)(g)
- § 87(2)(b) identified PO Schoefer as the officer who allegedly cursed at him and pushed him. § 87(2)(g)
- § 87(2)(b) alleged that PO Schoefer hit him in his ribs with a police radio. However, he testified that he lost consciousness as he lay on the ground, and was only told that he was hit with a radio from witnesses at the scene, namely his sister, who did not cooperate with the CCRB. § 87(2)(b) testified to have seen a white male officer hit § 87(2)(b) with a radio, § 87(2)(g)
- § 87(2)(b) also mentioned that he was grabbed from behind and taken to the ground. Although § 87(2)(b) did not see who grabbed him, Sgt. Zuber acknowledged that had done so. § 87(2)(g)
- § 87(2)(g)
- PO Monzon acknowledged that she interacted with § 87(2)(b) § 87(2)(g)
- § 87(2)(g)

Allegation Not Pled

§ 87(2)(b) testified that he was told from witnesses at the location that he was struck with a flashlight. § 87(2)(b) and § 87(2)(b) did not testify to have seen § 87(2)(b) struck with the flashlight and § 87(2)(b) claimed to be unconscious at the time. Since the allegation is hearsay and either victim or witness testified to have seen it occur, the allegation was not pled.

Investigative Findings and Recommendations

Allegation A-Abuse of Authority: Officers entered § 87(2)(b) in Manhattan.

Allegation B-Force: Officers used physical force against § 87(2)(b)

Allegation C-Force: Officers used physical force against § 87(2)(b)

Since § 87(2)(b) and § 87(2)(b) did not cooperate in the investigation and since § 87(2)(b) withdrew her portion of the complaint, § 87(2)(g)

Allegation D-Discourtesy: PO Stephen Schoefer spoke obscenely and/or rudely to § 87(2)(b)

PO Monzon, Sgt. Zuber, § 87(2)(b) and § 87(2)(b) testified that they did not hear PO Schoefer speak profanely toward § 87(2)(b) and PO Schoefer denied engaging in such action. § 87(2)(g)

§ 87(2)(g)

Allegation E-Force: PO Stephen Schoefer used physical force against § 87(2)(b)

Allegation F-Force: Sgt. Neil Zuber used physical force against § 87(2)(b)

Allegation G-Force: Officers used physical force against § 87(2)(b)

Once PO Schoefer arrived at the scene, he, Sgt. Zuber, and other officers proceeded to clear the area for crowd control. PO Schoefer directed civilians to leave the area by gesturing toward the direction they should move. § 87(2)(b) refused to comply and slapped PO Schoefer's hand down as he gestured toward the civilians to move from the area. § 87(2)(b) testified that he did not comply with PO Schoefer's instructions after he was told to move away approximately four times. According to § 87(2)(b) PO Schoefer proceeded to push him on his chest. § 87(2)(b) and § 87(2)(b) also testified that § 87(2)(b) was pushed as § 87(2)(b) was trying to speak to PO Monzon and PO Gomez.

§ 87(2)(b) received no injuries from the push and kept trying to speak to PO Monzon and PO Gomez. § 87(2)(b) stated that PO Schoefer pushed him a second time, but later stated that the officer did not manage to push him because he brushed his hand away, § 87(2)(g)

§ 87(2)(b) PO Schoefer testified that once § 87(2)(b) had slapped his hand, he decided to place him under arrest. At that point, § 87(2)(b) punched PO Schoefer a few times in his chest and had grabbed his uniform by the collar trying to get him on the ground. Sgt. Zuber testified that he observed § 87(2)(b) "squaring off" and throwing punches" at his officers as PO Monzon also testified that she observed § 87(2)(b) "take a swing" at PO Schoefer.

§ 87(2)(b) denied that he resisted arrest and testified that he was "rushed" from behind and brought to the ground, where he was punched in the head and hit multiple times. Sgt. Zuber admitted that he approached § 87(2)(b) from behind and brought him to the ground once he observed § 87(2)(b) fighting with his officers. Although PO Schoefer did not recall what happened with § 87(2)(b) after he grabbed his uniform, Sgt. Zuber acknowledged that § 87(2)(b) was taken to the ground, placed in a submissive position in order to prevent § 87(2)(b) from kicking the officers. Based on the officers' statements, § 87(2)(b) was not punched or hit during the incident but was subdued once he resisted arrest. § 87(2)(b) testified that he received scrapes on his face, back, and wrist, § 87(2)(g)

§ 87(2)(b) According to *Police Department v. Freeman*, "in effecting an arrest, a police officer is permitted to use reasonable force to take a suspect into custody or to defend himself from the 'imminent use of physical force' by another" (encl. 1a-1f). § 87(2)(g)

Allegation H-Force: An officer struck § 87(2)(b) with a radio.

§ 87(2)(b) testified that he "blackout" once he was on the ground and did not know he was hit with a police radio until he was told by eyewitnesses. However, as mentioned above, § 87(2)(b) denied loss of consciousness to medical personnel, and he did not mention being hit with a radio to them. § 87(2)(b) testified that he saw an officer strike § 87(2)(b) in the head with a radio while

§ 87(2)(b) did not mention the allegation. The officers denied having seen an officer strike § 87(2)(b) with a radio § 87(2)(g)

Allegation I-Force: PO Leiddy Monzon used physical force against § 87(2)(b)

After § 87(2)(b) was placed under arrest, the officers believed he attempted to exit the police vehicle once his brothers began to argue with the officers. § 87(2)(b) mentioned that he believed PO Monzon punched him because she thought he wanted to exit the vehicle. PO Monzon admitted that she pushed § 87(2)(b) in his chest once he began to kick her and attempted to exit the PT Cruiser. Sgt. Zuber also testified that he observed PO Monzon struggling with § 87(2)(b). § 87(2)(b) received no injury from the pushes. § 87(2)(g)

According to *Police Department v. Freeman*, “in effecting an arrest, a police officer is permitted to use reasonable force to take a suspect into custody or to defend himself from the ‘imminent use of physical force’ by another” (encl. 1a-1f). § 87(2)(g)

Allegation J: Force: An officer used pepper spray against individuals.

§ 87(2)(b) and § 87(2)(b) alleged that an officer discharged his pepper spray into a crowd. Although the officers interviewed for this case denied that pepper spray was discharged, § 87(2)(b) and § 87(2)(b) did not cooperate with the investigation, § 87(2)(g)

Team: One

:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date